

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JENIFER CARIAGA LAGAZO

Registered Nurse License No. 554218

Case No. 2012-278

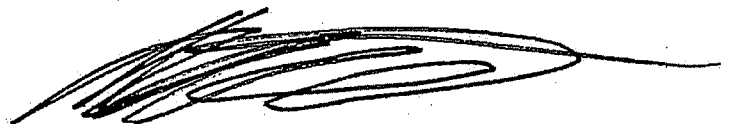
Respondent .

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 20, 2012.

IT IS SO ORDERED July 20, 2012.



Erin Niemela
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-278

12 **JENIFER CARIAGA LAGAZO**
13 **4743 Avenida de las Flores**
14 **Yorba Linda, CA 92886**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Registered Nurse License No. 554218**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant), brought this action solely in her capacity
22 as the Interim Executive Officer of the Board of Registered Nursing (Board), Department of
23 Consumer Affairs. She brought this action solely in her official capacity and is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Sherry L. Ledakis,
25 Deputy Attorney General.

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2. Respondent Jenifer Cariaga Lagazo (Respondent) is represented in this proceeding by attorney Lisa Sterling Arnquist, whose address is: 2700 N. Main Street, Suite 335, Santa Ana, CA 92705

3. On or about April 14, 1999, the Board of Registered Nursing issued Registered Nurse License No. 554218 to Jenifer Cariaga Lagazo (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-278 and will expire on February 28, 2013, unless renewed.

JURISDICTION

4. Accusation No. 2012-278 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 1, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-278 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-278. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent acknowledges and agrees that the Board has continuing jurisdiction to discipline her license.

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-278. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration
2 and court review of an adverse decision; and all other rights accorded by the California
3 Administrative Procedure Act and other applicable laws.

4 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
5 every right set forth above.

6 10. Should this stipulated settlement be presented at a hearing before an Administrative
7 Law Judge for preparation of a proposed decision, Respondent voluntarily, knowingly, and
8 intelligently waives stenographic reporting of the proceeding and hereby consents to electronic
9 reporting of the proceeding (Gov. Code, § 11512 (d)).

10 CULPABILITY

11 11. Respondent admits the truth of each and every charge and allegation in Accusation
12 No. 2012-278.

13 12. Respondent agrees that her Registered Nurse License is subject to discipline and she
14 agrees to be bound by the probationary terms as set forth in the Disciplinary Order below.

15 RESERVATION

16 13. The admissions made by Respondent herein are only for the purposes of this
17 proceeding, or any other proceedings in which the Department of Consumer Affairs, the
18 Successor to the Board of Registered Nursing, or other professional licensing agency is involved,
19 and shall not be admissible in any other criminal or civil proceeding.

20 CONTINGENCY

21 14. This stipulation shall be subject to approval by the Board pursuant to the Board's
22 delegation of authority as set forth in the attached interagency agreement. Respondent
23 understands and agrees that counsel for Complainant and Board staff may communicate directly
24 with the Board regarding this stipulation and settlement, without notice to or participation by
25 Respondent or her counsel.

26 By signing the stipulation, Respondent understands and agrees that she may not withdraw
27 her agreement or seek to rescind the stipulation before the Board acts on it or it becomes effective
28 by operation of law pursuant to the Administrative Procedure Act (Gov. Code, § 11340 et seq.).

1 If the Stipulated Settlement and Disciplinary Order is rejected by the Board as the final resolution
2 of the pending accusation, it shall be of no force or effect, except for this paragraph it shall be
3 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
4 further action by having considered this matter.

5 15. The parties understand and agree that facsimile copies of this Stipulated Settlement
6 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
7 effect as the originals.

8 16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
9 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
10 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
11 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
12 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
13 writing executed by an authorized representative of each of the parties.

14 17. In consideration of the foregoing admissions and stipulations, the parties agree that
15 the Board may, without further notice or formal proceeding, issue and enter the following
16 Disciplinary Order:

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Registered Nurse License No. 554218 issued to
19 Respondent Jenifer Cariaga Lagazo (Respondent) is revoked. However, the revocation is stayed
20 and Respondent is placed on probation for three (3) years on the following terms and conditions.

21 **Severability Clause.** Each condition of probation contained herein is a separate and
22 distinct condition. If any condition of this Order, or any application thereof, is declared
23 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
24 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
25 and enforceable to the fullest extent permitted by law.

26 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
27 detailed account of any and all violations of law shall be reported by Respondent to the Board in
28 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with

1 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
2 45 days of the effective date of the decision, unless previously submitted as part of the licensure
3 application process.

4 **Criminal Court Orders:** If Respondent is under criminal court orders, including
5 probation or parole, and the order is violated, this shall be deemed a violation of these probation
6 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

7 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
8 the conditions of the Probation Program established by the Board and cooperate with
9 representatives of the Board in its monitoring and investigation of the Respondent's compliance
10 with the Board's Probation Program. Respondent shall inform the Board in writing within no
11 more than 15 days of any address change and shall at all times maintain an active, current license
12 status with the Board, including during any period of suspension.

13 Upon successful completion of probation, Respondent's license shall be fully restored.

14 3. **Report in Person.** Respondent, during the period of probation, shall appear in
15 person at interviews/meetings as directed by the Board or its designated representatives.

16 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
17 practice as a registered nurse outside of California shall not apply toward a reduction of this
18 probation time period. Respondent's probation is tolled, if and when she resides outside of
19 California. Respondent must provide written notice to the Board within 15 days of any change of
20 residency or practice outside the state, and within 30 days prior to re-establishing residency or
21 returning to practice in this state.

22 Respondent shall provide a list of all states and territories where she has ever been licensed
23 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
24 information regarding the status of each license and any changes in such license status during the
25 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
26 license during the term of probation.

27 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
28 or cause to be submitted such written reports/declarations and verification of actions under

1 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
2 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
3 Respondent shall immediately execute all release of information forms as may be required by the
4 Board or its representatives.

5 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
6 state and territory in which she has a registered nurse license.

7 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
8 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
9 6 consecutive months or as determined by the Board.

10 For purposes of compliance with the section, "engage in the practice of registered nursing"
11 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
12 non-direct patient care position that requires licensure as a registered nurse.

13 The Board may require that advanced practice nurses engage in advanced practice nursing
14 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

15 If Respondent has not complied with this condition during the probationary term, and
16 Respondent has presented sufficient documentation of her good faith efforts to comply with this
17 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
18 extension of Respondent's probation period up to one year without further hearing in order to
19 comply with this condition. During the one year extension, all original conditions of probation
20 shall apply.

21 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
22 prior approval from the Board before commencing or continuing any employment, paid or
23 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
24 performance evaluations and other employment related reports as a registered nurse upon request
25 of the Board.

26 Respondent shall provide a copy of this Decision to her employer and immediate
27 supervisor(s) prior to commencement of any nursing or other health care related employment.

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1 In addition to the above, Respondent shall notify the Board in writing within seventy-two
2 (72) hours after she obtains any nursing or other health care related employment. Respondent
3 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
4 separated, regardless of cause, from any nursing, or other health care related employment with a
5 full explanation of the circumstances surrounding the termination or separation.

6 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
7 Respondent's level of supervision and/or collaboration before commencing or continuing any
8 employment as a registered nurse, or education and training that includes patient care.

9 Respondent shall practice only under the direct supervision of a registered nurse in good
10 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
11 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
12 approved.

13 Respondent's level of supervision and/or collaboration may include, but is not limited to the
14 following:

15 (a) Maximum - The individual providing supervision and/or collaboration is present in
16 the patient care area or in any other work setting at all times.

17 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
18 care unit or in any other work setting at least half the hours Respondent works.

19 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
20 person communication with Respondent at least twice during each shift worked.

21 (d) Home Health Care - If Respondent is approved to work in the home health care
22 setting, the individual providing supervision and/or collaboration shall have person-to-person
23 communication with Respondent as required by the Board each work day. Respondent shall
24 maintain telephone or other telecommunication contact with the individual providing supervision
25 and/or collaboration as required by the Board during each work day. The individual providing
26 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
27 patients' homes visited by Respondent with or without Respondent present.

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1 **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any
2 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
3 or for an in-house nursing pool.

4 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
5 registered nursing supervision and other protections for home visits have been approved by the
6 Board. Respondent shall not work in any other registered nursing occupation where home visits
7 are required.

8 Respondent shall not work in any health care setting as a supervisor of registered nurses.
9 The Board may additionally restrict Respondent from supervising licensed vocational nurses
10 and/or unlicensed assistive personnel on a case-by-case basis.

11 Respondent shall not work as a faculty member in an approved school of nursing or as an
12 instructor in a Board approved continuing education program.

13 Respondent shall work only on a regularly assigned, identified and predetermined
14 worksite(s) and shall not work in a float capacity.

15 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
16 request documentation to determine whether there should be restrictions on the hours of work.

17 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
18 successfully complete a course(s) relevant to the practice of registered nursing no later than six
19 months prior to the end of her probationary term.

20 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
21 Respondent shall submit to the Board the original transcripts or certificates of completion for the
22 above required course(s). The Board shall return the original documents to Respondent after
23 photocopying them for its records.

24 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its
25 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
26 amount of \$4,270.70. Respondent shall be permitted to pay these costs in a payment plan
27 approved by the Board, with payments to be completed no later than three months prior to the end
28 of the probation term.

1 If Respondent has not complied with this condition during the probationary term, and
2 Respondent has presented sufficient documentation of her good faith efforts to comply with this
3 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
4 extension of Respondent's probation period up to one year without further hearing in order to
5 comply with this condition. During the one year extension, all original conditions of probation
6 will apply.

7 **12. Violation of Probation.** If Respondent violates the conditions of her probation, the
8 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
9 and impose the stayed discipline (revocation/suspension) of Respondent's license.

10 If during the period of probation, an accusation or petition to revoke probation has been
11 filed against Respondent's license or the Attorney General's Office has been requested to prepare
12 an accusation or petition to revoke probation against Respondent's license, the probationary
13 period shall automatically be extended and shall not expire until the accusation or petition has
14 been acted upon by the Board.

15 **13. License Surrender.** During Respondent's term of probation, if she ceases practicing
16 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
17 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
18 Respondent's request and to exercise its discretion whether to grant the request, or to take any
19 other action deemed appropriate and reasonable under the circumstances, without further hearing.
20 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
21 subject to the conditions of probation.

22 Surrender of Respondent's license shall be considered a disciplinary action and shall
23 become a part of Respondent's license history with the Board. A registered nurse whose license
24 has been surrendered may petition the Board for reinstatement no sooner than the following
25 minimum periods from the effective date of the disciplinary decision:

26 (1) Two years for reinstatement of a license that was surrendered for any reason other
27 than a mental or physical illness; or

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1 (2) One year for a license surrendered for a mental or physical illness.

2 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
3 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
4 assistant, who is approved by the Board before the assessment is performed, submit an
5 assessment of the Respondent's physical condition and capability to perform the duties of a
6 registered nurse, including a determination as set forth below in the condition titled "Rule-Out
7 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
8 the Board. If medically determined, a recommended treatment program will be instituted and
9 followed by the Respondent with the physician, nurse practitioner, or physician assistant
10 providing written reports to the Board on forms provided by the Board.

11 If Respondent is determined to be unable to practice safely as a registered nurse, the
12 licensed physician, nurse practitioner, or physician assistant making this determination shall
13 immediately notify the Board and Respondent by telephone, and the Board shall request that the
14 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
15 immediately cease practice and shall not resume practice until notified by the Board. During this
16 period of suspension, Respondent shall not engage in any practice for which a license issued by
17 the Board is required until the Board has notified Respondent that a medical determination
18 permits Respondent to resume practice. This period of suspension will not apply to the reduction
19 of this probationary time period.

20 If Respondent fails to have the above assessment submitted to the Board within the 45-day
21 requirement, Respondent shall immediately cease practice and shall not resume practice until
22 notified by the Board. This period of suspension will not apply to the reduction of this
23 probationary time period. The Board may waive or postpone this suspension only if significant,
24 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
25 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
26 Only one such waiver or extension may be permitted.

27 15. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
28 of this Decision, have a mental health examination including psychological testing as appropriate

1 to determine her capability to perform the duties of a registered nurse. The examination will be
2 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
3 the Board. The examining mental health practitioner will submit a written report of that
4 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
5 Recommendations for treatment, therapy or counseling made as a result of the mental health
6 examination will be instituted and followed by Respondent.

7 If Respondent is determined to be unable to practice safely as a registered nurse, the
8 licensed mental health care practitioner making this determination shall immediately notify the
9 Board and Respondent by telephone, and the Board shall request that the Attorney General's
10 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
11 practice and may not resume practice until notified by the Board. During this period of
12 suspension, Respondent shall not engage in any practice for which a license issued by the Board
13 is required, until the Board has notified Respondent that a mental health determination permits
14 Respondent to resume practice. This period of suspension will not apply to the reduction of this
15 probationary time period.

16 If Respondent fails to have the above assessment submitted to the Board within the 45-day
17 requirement, Respondent shall immediately cease practice and shall not resume practice until
18 notified by the Board. This period of suspension will not apply to the reduction of this
19 probationary time period. The Board may waive or postpone this suspension only if significant,
20 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
21 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
22 Only one such waiver or extension may be permitted.

23 **16. Therapy or Counseling Program.** Respondent, at her expense, shall participate in
24 an on-going counseling program until such time as the Board releases her from this requirement
25 and only upon the recommendation of the counselor. Written progress reports from the counselor
26 will be required at various intervals.

27 **17. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
28 and/or mental health examination determines that the respondent is dependent upon drugs or

1 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
2 dependence in remission), that might reasonably affect the safe practice of nursing, then the
3 respondent must further comply with the following additional terms and conditions of probation:

4 **A. Participate in Treatment/Rehabilitation Program for Chemical**

5 **Dependence.** Respondent, at her expense, shall successfully complete during the
6 probationary period or shall have successfully completed prior to commencement
7 of probation a Board-approved treatment/rehabilitation program of at least six
8 months duration. As required, reports shall be submitted by the program on forms
9 provided by the Board. If Respondent has not completed a Board-approved
10 treatment/rehabilitation program prior to commencement of probation,
11 Respondent, within 45 days from the effective date of the decision, shall be
12 enrolled in a program. If a program is not successfully completed within the first
13 nine months of probation, the Board shall consider Respondent in violation of
14 probation.

15 Based on Board recommendation, each week Respondent shall be required
16 to attend at least one, but no more than five 12-step recovery meetings or
17 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
18 support group as approved and directed by the Board. If a nurse support group is
19 not available, an additional 12-step meeting or equivalent shall be added.
20 Respondent shall submit dated and signed documentation confirming such
21 attendance to the Board during the entire period of probation. Respondent shall
22 continue with the recovery plan recommended by the treatment/rehabilitation
23 program or a licensed mental health examiner and/or other ongoing recovery
24 groups.

25 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
26 shall completely abstain from the possession, injection or consumption by any
27 route of all controlled substances and all psychotropic (mood altering) drugs,
28 including alcohol, except when the same are ordered by a health care professional

1 legally authorized to do so as part of documented medical treatment. Respondent
2 shall have sent to the Board, in writing and within fourteen (14) days, by the
3 prescribing health professional, a report identifying the medication, dosage, the
4 date the medication was prescribed, the Respondent's prognosis, the date the
5 medication will no longer be required, and the effect on the recovery plan, if
6 appropriate.

7 Respondent shall identify for the Board a single physician, nurse
8 practitioner or physician assistant who shall be aware of Respondent's history of
9 substance abuse and will coordinate and monitor any prescriptions for Respondent
10 for dangerous drugs, controlled substances or mood-altering drugs. The
11 coordinating physician, nurse practitioner, or physician assistant shall report to the
12 Board on a quarterly basis Respondent's compliance with this condition. If any
13 substances considered addictive have been prescribed, the report shall identify a
14 program for the time limited use of any such substances.

15 The Board may require the single coordinating physician, nurse
16 practitioner, or physician assistant to be a specialist in addictive medicine, or to
17 consult with a specialist in addictive medicine.

18 **C. Submit to Tests and Samples.** Respondent, at her expense, shall
19 participate in a random, biological fluid testing or a drug screening program which
20 the Board approves. The length of time and frequency will be subject to approval
21 by the Board. Respondent is responsible for keeping the Board informed of
22 Respondent's current telephone number at all times. Respondent shall also ensure
23 that messages may be left at the telephone number when she is not available and
24 ensure that reports are submitted directly by the testing agency to the Board, as
25 directed. Any confirmed positive finding shall be reported immediately to the
26 Board by the program and Respondent shall be considered in violation of
27 probation.

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1 In addition, Respondent, at any time during the period of probation, shall
2 fully cooperate with the Board or any of its representatives, and shall, when
3 requested, submit to such tests and samples as the Board or its representatives may
4 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
5 controlled substances.

6 If Respondent has a positive drug screen for any substance not legally
7 authorized and not reported to the coordinating physician, nurse practitioner, or
8 physician assistant, and the Board files a petition to revoke probation or an
9 accusation, the Board may suspend Respondent from practice pending the final
10 decision on the petition to revoke probation or the accusation. This period of
11 suspension will not apply to the reduction of this probationary time period.

12 If Respondent fails to participate in a random, biological fluid testing or
13 drug screening program within the specified time frame, Respondent shall
14 immediately cease practice and shall not resume practice until notified by the
15 Board. After taking into account documented evidence of mitigation, if the Board
16 files a petition to revoke probation or an accusation, the Board may suspend
17 Respondent from practice pending the final decision on the petition to revoke
18 probation or the accusation. This period of suspension will not apply to the
19 reduction of this probationary time period.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Lisa Sterling Arnquist. I understand the stipulation and the effect it
23 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order.

26 DATED: 3/13/12

27 
JENNIFER CARIAGA LAGAZO
28 Respondent

1 I have read and fully discussed with Respondent Jenifer Cariaga Lagazo the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 3/14/2012


LISA STERLING ARNQUIST
Attorney for Respondent

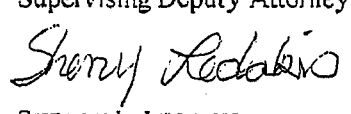
7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted.

10 Dated: March 19, 2012

Respectfully submitted,

11
12 KAMALA D. HARRIS
Attorney General of California
13 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

14 

15 SHERRY L. LEDAKIS
16 Deputy Attorney General
Attorneys for Complainant

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18
19 SD2011800556
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Exhibit A

Accusation No. 2012-278

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-278

12 **JENIFER CARIAGA LAGAZO aka**
13 **JENIFER CAROAGA LAGAZO**
14 **4743 Avenida de las Flores**
Yorba Linda, CA 92886

A C C U S A T I O N

15 **Registered Nurse License No. 554218**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 14, 1999, the Board of Registered Nursing issued Registered Nurse
24 License Number 554218 to Jenifer Cariaga Lagazo aka Jenifer Caroaga Lagazo (Respondent).
25 The Registered Nurse License was in full force and effect at all times relevant to the charges
26 brought herein and will expire on February 28, 2013, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

7. California Code of Regulations, title 16 (CCR) section 1442 states:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

8. CCR section 1443 states:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and

1 experience ordinarily possessed and exercised by a competent registered nurse as
2 described in Section 1443.5.

3 9. CCR section 1443.5 states:

4 A registered nurse shall be considered to be competent when he/she consistently
5 demonstrates the ability to transfer scientific knowledge from social, biological and
6 physical sciences in applying the nursing process, as follows:

7 (1) Formulates a nursing diagnosis through observation of the client's physical
8 condition and behavior, and through interpretation of information obtained from the
9 client and others, including the health team.

10 (2) Formulates a care plan, in collaboration with the client, which ensures that direct
11 and indirect nursing care services provide for the client's safety, comfort, hygiene,
12 and protection, and for disease prevention and restorative measures.

13 (3) Performs skills essential to the kind of nursing action to be taken, explains the
14 health treatment to the client and family and teaches the client and family how to care
15 for the client's health needs.

16 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
17 subordinates and on the preparation and capability needed in the tasks to be
18 delegated, and effectively supervises nursing care being given by subordinates.

19 (5) Evaluates the effectiveness of the care plan through observation of the client's
20 physical condition and behavior, signs and symptoms of illness, and reactions to
21 treatment and through communication with the client and health team members, and
22 modifies the plan as needed.

23 (6) Acts as the client's advocate, as circumstances require, by initiating action to
24 improve health care or to change decisions or activities which are against the interests
25 or wishes of the client, and by giving the client the opportunity to make informed
26 decisions about health care before it is provided.

27 COSTS

28 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licensee found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

FACTS

11. On February 17, 2010, Respondent was working as a registered nurse at Riverside
Community Hospital, (RCH). On this date, the Chief Nursing Officer at RCH, F.P. received

1 photographs and a DVD of Respondent's residence taken by Respondent's ex-boyfriend. The
2 photographs and DVD depicted empty narcotics vials, empty plastic medication bags, rubber
3 band tourniquets, packages of unused gauze, alcohol swabs, and syringes inside of a bathroom
4 and bedroom at the residence. Two of the plastic medication bags contained the names of
5 patients on the labels. The two names were former patients at RCH who had previously been
6 assigned to Respondent. RCH conducted a review of the medication records and discovered that
7 Respondent's wastage of narcotics was four times higher than that of other RNs during the review
8 period; however, there was no evidence of narcotic diversion.

9 12. During a meeting between RCH administrators and Respondent regarding the
10 contents of the DVD, Respondent admitted that she took home used narcotics' vials and plastic
11 medication bags when she forgot to properly discard them at RCH during her shift. Respondent
12 was advised of being in violation of RCH's confidentiality policy by having patients' confidential
13 information at her residence. After being confronted with violations of the Health Insurance
14 Portability and Accountability Act of 1996 (HIPAA) policy, the hospital's confidentiality policy,
15 hospital property policy, and after consulting with her union representative, Respondent resigned
16 on March 2, 2010.

17 13. During a meeting with a Board investigator, Respondent admitted that she
18 accidentally took home empty plastic bags, empty narcotics vials, and syringes on a few
19 occasions. Respondent admitted to taking the medication bags to use to store her "receipts."

20 14. The DVD depicts multiple empty labeled glass vials identical in appearance to those
21 used by RCH. One vial was clearly labeled "Hydromorphone, HCL Injection, USP." The DVD
22 also depicts a plastic bag full of unused packages of "Gauze Sponges-USP Type VII Gauze,"
23 alcohol swabs identical to those used by RCH to treat patients, and two syringes with rubber caps
24 on the needle.

25 15. Respondent admitted that she had taken the syringes to use for her acne.

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1 CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Gross Negligence/Incompetence)

3 16. Respondent has subjected her license to discipline pursuant to Code section
4 2761(a)(1), in that she was grossly negligent or incompetent in carrying out usual certified or
5 licensed nursing functions by: (a) failing to properly dispose of narcotics, used syringes, and
6 medication bags labeled with patient names; and (b) failing to protect patient confidentiality, as
7 set forth in paragraphs 11 through 15, above.

8 PRAYER


9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 554218, issued to Jenifer
12 Cariaga Lagazo aka Jenifer Caroaga Lagazo;

13 2. Ordering Jenifer Cariaga Lagazo aka Jenifer Caroaga Lagazo to pay the Board of
14 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
15 pursuant to Business and Professions Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.
17
18

19 DATED: November 1, 2011


20 LOUISE R. BAILEY, M.ED., RN
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant

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